

Remarks

Applicants gratefully acknowledge the courtesy extended by Examiner Yebassa to Applicants' representative, Mary Montebello (Registration No. 33,021), in a telephone conference held on January 19, 2006, regarding the instant application. In the conference, the Examiner and Ms. Montebello discussed, in particular, the Examiner's suggestion presented in the Office Action at the paragraph bridging pages 12 and 13. In that paragraph, the Examiner suggested amending claim 1 to include the contents of claims 5, 7 and 8; amending claim 16 to include the contents of claims 20, 22 and 23; and amending claim 28 to include the contents of claims 31, 33 and 34. In the January 19 telephone conference, Examiner Yebassa indicated that such amendments would place the application in condition for allowance. Accordingly, in this Amendment, claims 1, 16 and 28 have been amended as suggested by the Examiner.

Claims 1, 3, 4, 6, 9-16, 18, 19, 21, 24-29, 32 and 35-48 are pending in this application. By this Amendment, claims 5, 7, 8, 20, 22, 23, 31, 33 and 34 have been canceled, and claims 1, 6, 9, 10, 11, 16, 21, 24, 25, 26, 28, 32, 35, 36, 37, 42 and 46-48 have been amended. Claims 2, 17 and 30 were canceled in a previous Amendment.

Claims 1, 16 and 28 have been amended in the manner noted above. The other claims amended herein (except for claim 42) have been amended to be consistent with the amendments to claims 1, 16 and 28, or to correct minor typographical errors. Claim 42 has been amended to delete the recitation "having a molecular structure similar to that of skin lipids."

In the Office Action, claims 1-3, 5-8, 16, 18, 20-23, 26-29, 31-34 and 36-38 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,573,299 to Petrus; claims 1-3, 5-14, 16, 18, 20-29, 31-38 and 41-48 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,193,956 to Liu et al. ("Liu"); claims 4 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. Petrus further in view of U.S. Patent No. 5,470,874 to Lerner; claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Liu further in view of Lerner; claims 39 and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Petrus and Lerner, further in view of KR 9210246 ("KR '246"); and claims 28-45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending U.S. Application No.

10/030,977 ("the '977 application"). Furthermore, the Office Action maintains the previous rejection of claim 12 under 35 U.S.C. §112.

In view of the amendments and remarks herein, Applicants respectfully request reconsideration and withdrawal of the rejections set forth in the Office Action.

I. Rejection of Claims 1-3, 5-8, 16, 18, 20-23, 26-29, 31-34 and 36-38 Under 35 U.S.C. §102(e)

Claims 1-3, 5-8, 16, 18, 20-23, 26-29, 31-34 and 36-38 are rejected under §102(e) as being anticipated by Petrus.

Applicants respectfully submit that Petrus does not anticipate claims 1, 3, 6, 16, 18, 21, 26-29, 31-34 and 36-38. Claims 2, 5, 7, 8, 20, 22 and 23 have been canceled.

Claims 1, 16 and 28 are independent claims. As noted previously, by this Amendment, claim 1 has been amended to include the contents of canceled claims 5, 7 and 8; claim 16 has been amended to include the contents of canceled claims 20, 22 and 23; and claim 28 has been amended to include the contents of canceled claims 31, 33 and 34. In view of the Examiner's suggestion in the Office Action at the paragraph bridging pages 12 and 13 and in view of the January 19 telephone conference, Applicants respectfully submit that claims 1, 16 and 28 and the claims dependent thereon are now in allowable form.

II. Rejection of Claims 1-3, 5-14, 16, 18, 20-29, 31-38 and 41-48 Under 35 U.S.C. § 103(a)

Claims 1-3, 5-14, 16, 18, 20-29, 31-38 and 41-48 are rejected under §103(a) as being unpatentable over Liu.

Applicants respectfully submit that claims 1, 3, 6, 9-14, 16, 18, 21, 24-29, 32, 35-38 and 41-48 would not have been obvious over Liu. Claims 2, 5, 7, 8, 20, 22, 23, 31, 33 and 34 have been canceled.

In view of the amendments to claims 1, 16 and 28, Applicants respectfully submit that these claims and the claims dependent thereon are now in allowable form.

III. Rejection of Claims 4 and 19 Under 35 U.S.C. §103(a)

Claims 4 and 19 are rejected under §103(a) as being unpatentable over Petrus further in view of Lerner.

Claims 4 and 19 depend respectively upon claims 1 and 16. Therefore, in view of the amendments to claims 1 and 16, Applicants submit that claims 4 and 19 are in allowable form.

IV. Rejection of Claim 15 Under 35 U.S.C. §103(a)

Claim 15 is rejected under §103(a) as being unpatentable over Liu further in view of Lerner.

Claim 15 depends upon claim 12 which depends upon claim 1. Therefore, in view of the amendment to claim 1, Applicants submit that claim 12 is in allowable form.

V. Rejection of Claims 39 and 40 Under 35 U.S.C. §103(a)

Claims 39 and 40 are rejected under §103(a) as being unpatentable over Petrus and Lerner, further in view of KR '246.

Claims 39 and 40 both depend upon claim 28. Therefore, in view of the amendment to claim 28, Applicants submit that claims 39 and 40 are in allowable form.

VI. Double Patenting Rejection of Claims 28-45

Claims 28-45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of the '977 application.

The '977 application is abandoned. A copy of the Notice of Abandonment is enclosed. Therefore, Applicants respectfully submit that a terminal disclaimer is not required in this case, and request that the double patenting rejection be withdrawn.

VII. Rejection of Claim 12 Under 35 U.S.C. §112

In the previous Office Action (mailed December 7, 2004), claim 12 was rejected under 35 U.S.C. §112 because was insufficient antecedent basis for the limitation "reducing agent".

Claim 12 depends upon claim 1. Claim 1 recites the use of a reducing agent (see line 5). Thus, claim 1 provides antecedent basis for the term "reducing agent" in claim 12.

VIII. Conclusion

In view of the amendments and remarks herein, Applicants respectfully request that the rejections set forth in the Office Action be withdrawn, and that claims 1, 3, 4, 6, 9-16, 18, 19, 21, 24-29, 32 and 35-48 be allowed.

If any additional fees under 37 C. F. R. §§ 1.16 or 1.17 are due in connection with this filing, please charge the fees to Deposit Account No. 02-4300, Order No. 032286.010.

Respectfully submitted,
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RGW/MAM/amr

Enclosures: (1) Petition for Extension of Time (One Month)
(2) Check for the sum of \$120
(3) Copy of Notice of Abandonment for U.S.S.N. 10/030,977